

Article 5. Exports of Hazardous Waste**§66262.50. Applicability.**

This article establishes requirements applicable to exports of hazardous waste to a foreign country from the State. Except to the extent 40 CFR section 262.58 provides otherwise, a primary exporter of hazardous waste shall comply with the requirements of this article and a transporter transporting hazardous waste for export shall comply with applicable requirements of chapter 13 of this division.

NOTE: Authority cited: Sections 208, 25150.2 and 25159, Health and Safety Code. Reference: Sections 25150.2, 25159, 25159.5 and 25162, Health and Safety Code, 40 CFR Section 262.50.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

§66262.52. General Requirements.

Exports of hazardous waste to a foreign country from the State are prohibited except in compliance with the applicable requirements of this article and of chapter 13 of this division. Exports of hazardous waste are prohibited unless:

- (a) notification in accordance with section 66262.53 has been provided;
- (b) for RCRA hazardous waste, the receiving country has consented to accept the hazardous waste;
- (c) for RCRA hazardous waste, a copy of the EPA Acknowledgment of Consent to the shipment accompanies the hazardous waste shipment and, unless exported by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment));
- (d) for RCRA hazardous waste, the hazardous waste shipment conforms to the terms of the receiving country's written consent as reflected in the EPA Acknowledgment of Consent.

NOTE: Authority cited: Sections 208, 25150.2 and 25159, Health and Safety Code. Reference: Sections 25150.2, 25159, 25159.5 and 25162, Health and Safety Code, 40 CFR Section 262.52.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

§66262.53. Notification of Intent to Export.

(a) A primary exporter of RCRA hazardous waste shall concurrently notify USEPA and send a copy of that notification to the Department of an intended export before such waste is scheduled to leave the United States. A complete notification shall be submitted sixty (60) days before the initial shipment is intended to be shipped off site. This notification shall cover export activities extending over a twelve (12) month or lesser period. The notification shall be in writing, signed by the primary exporter, and include the following information:

- (1) name, mailing address, telephone number and ID number of the primary exporter;
- (2) by consignee, for each hazardous waste type:
 - (A) a description of the hazardous waste and the EPA hazardous waste number, if applicable, (from chapter 11, articles 3 and 4), California Hazardous Waste Code Number, U.S. DOT proper shipping name, hazard class and ID number (UN/NA) for each hazardous waste as identified in Title 49 CFR Parts 171 through 177;
 - (B) the estimated frequency or rate at which such waste is to be exported and the period of time over which such waste is to be exported;
 - (C) the estimated total quantity of the hazardous waste in units as specified in the instructions to the Uniform Hazardous Waste Manifest Form (Form DTSC 8022A 4/97) in the appendix to section 66262;
 - (D) all points of entry to and departure from each foreign country through which the hazardous waste will pass;
 - (E) a description of the means by which each shipment of the hazardous waste will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), type(s) of container (drums, boxes, tanks, etc.));
 - (F) a description of the manner in which the hazardous waste will be treated, stored or disposed of in the receiving country (e.g., land or ocean incineration, other land disposal, ocean dumping, recycling);
 - (G) the name and site address of the consignee and any alternate consignee; and
 - (H) the name of any transit countries through which the hazardous waste will be sent and a description of the approximate length of time the hazardous waste will remain in such country and the nature of its handling while there.

(b) A primary exporter of non-RCRA hazardous waste shall notify the Department of an intended export before such waste is scheduled to leave the United States. A complete notification shall be submitted four weeks before the initial shipment is intended to be shipped off site. This notification shall cover export activities extending over a twelve (12) month or lesser period. The notification shall be in writing, signed by the primary exporter, and include all the information required by subsections 66262.53(a)(1) and (2).

(c) Notifications submitted by mail for RCRA hazardous waste exports shall be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A), Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. Hand delivered notifications should be sent to: Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A), Environmental Protection Agency, Ariel Rios Bldg., 12th Street and Pennsylvania Avenue, NW, Washington, DC 20460. In both cases the following shall be prominently

displayed on the front of the envelope: "Attention: Notification for Intent to Export." In addition, a copy of the notification shall be sent to the Dept. of Toxic Substances Control, Hazardous Waste Management Program, Statewide Compliance Division, P.O. Box 806, Sacramento, CA 95812-0806, with "Attention: Notification to Export" prominently displayed on the front of the envelope. Notwithstanding any other provision of law or regulation, notifications for non-RCRA hazardous waste exports shall only be sent to the Department.

(d) When the conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous waste specified in the original notification), the primary exporter shall provide EPA and the Department with a written renotification of the change, except for changes to the telephone number in subsection (a)(1) of this section, changes to subsection (a)(2)(E) of this section and decreases in the quantity indicated pursuant to subsection (a)(2)(C) of this section. The shipment cannot take place until consent of the receiving country to the changes (except for changes to subsection (a)(2)(H) of this section and in the ports of entry to and departure from transit countries pursuant to subsection (a)(2)(D) of this section) has been obtained and the primary exporter receives an EPA Acknowledgment of Consent reflecting the receiving country's consent to the changes.

(e) Upon request by EPA, a primary exporter shall furnish to EPA any additional information which a receiving country requests in order to respond to a notification.

(f) In conjunction with the Department of State, EPA will provide a complete notification to the receiving country and any transit countries. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of section 66262.53(a). Where a claim of confidentiality is asserted with respect to any notification information required by section 66262.53(a), EPA may find the notification not complete until any such claim is resolved in accordance with section 66260.2.

(g) Where the receiving country consents to the receipt of the hazardous waste, EPA will forward an EPA Acknowledgment of Consent to the primary exporter for purposes of section 66262.54(h). Where the receiving country objects to receipt of the hazardous waste or withdraws a prior consent, EPA will notify the primary exporter in writing. EPA will also notify the primary exporter of any responses from transit countries.

NOTE: Authority cited: Sections 208, 25150.2 and 25159, Health and Safety Code. Reference: Sections 25150.2, 25159, 25159.5 and 25162, Health and Safety Code, 40 CFR Section 262.53.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).
2. Editorial correction of printing error in subsection (c) (Register 92, No. 49).
3. Change without regulatory effect amending subsection (c) filed 3-12-93; operative 3-12-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 11).
4. Change without regulatory effect amending subsection (c) filed 8-20-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 34).
5. Change without regulatory effect amending subsection (a)(2)(C) filed 8-27-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 35).
6. Change without regulatory effect amending subsection (b) filed 6—7—2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 24).

§66262.54. Special Manifest Requirements.

A primary exporter shall comply with the manifest requirements of sections 66262.20 through 66262.23 except that:

(a) in lieu of the name, site address and ID number of the designated permitted facility, the primary exporter shall enter the name and site address of the consignee;

(b) in lieu of the name, site address and ID number of a permitted alternate facility, the primary exporter may enter the name and site address of any alternate consignee;

(c) in Special Handling Instructions and Additional Information, the primary exporter shall identify the point of departure from the United States;

(d) for RCRA hazardous waste, the following statement shall be added to the end of the first sentence of the certification set forth in Item 16 of the Uniform Hazardous Waste Manifest Form: "and conforms to the terms of the attached EPA Acknowledgment of Consent";

(e) in lieu of the requirements of section 66262.21, the primary exporter shall obtain the manifest form from the Department;

(f) the primary exporter shall require the consignee to confirm in writing the delivery of the hazardous waste to that facility and to describe any significant discrepancies (as defined in section 66264.72(a)) between the manifest and the shipment. A copy of the manifest signed by such facility may be used to confirm delivery of the hazardous waste;

(g) in lieu of the requirements of section 66262.20(d), where a shipment cannot be delivered for any reason to the designated or alternate consignee, the primary exporter shall:

(1) renotify USEPA for RCRA hazardous waste and the Department for both RCRA hazardous waste and non-RCRA hazardous waste of a change in the conditions of the original notification to allow shipment to a new consignee in accordance with section 66262.53(c) or

(2) instruct the transporter to return the waste to the primary exporter in the United States or designate another facility within the United States; and

(3) instruct the transporter to revise the manifest in accordance with the primary exporter's instructions;

(h) for RCRA hazardous waste, the primary exporter shall attach a copy of the EPA Acknowledgment of Consent to the shipment to the manifest which shall accompany the hazardous waste shipment. For exports by rail or water (bulk shipment), the primary exporter shall provide the transporter with an EPA Acknowledgment of Consent which shall accompany the hazardous waste but which need not be attached to the manifest except that for exports by water (bulk shipment) the primary exporter shall attach the copy of the EPA Acknowledgment of Consent to the shipping paper;

(i) for RCRA hazardous waste, the primary exporter shall provide the transporter with an additional copy of the manifest for delivery to the U.S. Customs official at the point the hazardous waste leaves the United States in accordance with section 66263.20(j)(4).

NOTE: Authority cited: Sections 25150.2, 25219 and 58012, Health and Safety Code. Reference: Sections 25150.2, 25159, 25159.5 and 25162, Health and Safety Code, 40 CFR Section 262.54.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).
2. Amendment of subsection (f) filed 4-4-2002 as an emergency; operative 4-4-2002 (Register 2002, No. 14). A Certificate of Compliance must be transmitted to OAL by 8-2-2002 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsection (f) refilled 8-1-2002 as an emergency; operative 8-1-2002 (Register 2002, No. 31). A Certificate of Compliance must be transmitted to OAL by 12-2-2002 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (f) refilled 12-2-2002 as an emergency; operative 12-3-2002 (Register 2002, No. 49). A Certificate of Compliance must be transmitted to OAL by 4-2-2003 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsection (f) refilled 4-1-2003 as an emergency; operative 4-3-2003 (Register 2003, No. 14). A Certificate of Compliance must be transmitted to OAL by 8-1-2003 or emergency language will be repealed by operation of law on the following day.
6. Repealer of 4-1-2003 order and amendment of Note filed 7-10-2003 as an emergency; operative 7-10-2003 (Register 2003, No. 28). Pursuant to Health and Safety Code section 25169.8, this is a deemed emergency and stays effective until revised by the agency.

§66262.55. Exception Reports.

In lieu of the requirements of section 66262.42, a primary exporter shall file an exception report with the USEPA Administrator and the Department for RCRA hazardous waste, or with the Department for non-RCRA hazardous waste, if:

- (a) the primary exporter has not received a copy of the manifest signed by the transporter stating the date and place of departure from the United States within forty-five (45) days from the date it was accepted by the initial transporter;
- (b) within ninety (90) days from the date the waste was accepted by the initial transporter, the primary exporter has not received written confirmation from the consignee that the hazardous waste was received;
- (c) the waste is returned to the United States.

NOTE: Authority cited: Sections 208, 25150.2 and 25159, Health and Safety Code. Reference: Sections 25150.2, 25159, 25159.5 and 25162, Health and Safety Code, 40 CFR Section 262.55.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

§66262.56. Annual Reports.

(a) Primary exporters of hazardous waste shall file with the USEPA Administrator and the Department no later than March 1 of each year, a report summarizing the types, quantities, frequency, and ultimate destination of all hazardous waste exported to a foreign country from the State during the previous calendar year. Such reports shall include the following:

- (1) the Identification Number, name, and mailing and site address of the exporter;
- (2) the calendar year covered by the report;
- (3) the name and site address of each consignee;
- (4) by consignee, for each hazardous waste exported, a description of the hazardous waste, the EPA hazardous waste number, if applicable (from chapter 11, articles 3 and 4), the California Hazardous Waste Code Number, DOT hazard class, the name and ID Number (where applicable) for each transporter used, the total amount of waste shipped and number of shipments pursuant to each notification;
- (5) unless provided pursuant to section 66262.41, in even numbered years:
 - (A) a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated; and
 - (B) a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984;
- (6) a certification signed by the primary exporter which states:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for

obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment.

(b) Annual reports submitted by mail shall be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A), Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460. Hand delivered notifications should be sent to: Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A), Environmental Protection Agency, Ariel Rios Bldg., 12th Street and Pennsylvania Avenue, NW, Washington, DC 20460. A copy of each report shall be sent to the Department at the following address: Department of Toxic Substances Control, Hazardous Waste Management Program, Statewide Compliance Division, P.O. Box 806, Sacramento, CA 95812-0806.

NOTE: Authority cited: Sections 208, 25150.2 and 25159, Health and Safety Code. Reference: Sections 25150.2, 25159, 25159.5 and 25162, Health and Safety Code, 40 CFR Section 262.56.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).
2. Change without regulatory effect amending subsection (b) filed 4-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 17).
3. Change without regulatory effect amending subsection (b) filed 8-20-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 34).

§66262.57. Recordkeeping.

- (a) For all hazardous waste exports to a foreign country from the State a primary exporter shall:
- (1) keep a copy of each notification of intent to export for both RCRA hazardous waste and non-RCRA hazardous waste for a period of at least three years from the date the hazardous waste was accepted by the initial transporter;
 - (2) for RCRA hazardous waste, keep a copy of each EPA Acknowledgment of Consent for a period of at least three years from the date the hazardous waste was accepted by the initial transporter;
 - (3) keep a copy of each confirmation of delivery of the hazardous waste from the consignee for at least three years from the date the hazardous waste was accepted by the initial transporter; and
 - (4) keep a copy of each annual report for a period of at least three years from the due date of the report.
- (b) The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the USEPA Administrator or the Department.

NOTE: Authority cited: Sections 208, 25150.2 and 25159, Health and Safety Code. Reference: Sections 25150.2, 25159, 25159.5 and 25162, Health and Safety Code, 40 CFR Section 262.57.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

§66262.58. International Agreements.

(a) Any person who exports or imports hazardous waste subject to the Federal manifesting requirements of 40 CFR Part 262, or subject to universal waste management standards of 40 CFR Part 273, to or from designated member countries of the Organization for Economic Cooperation and Development (OECD) as defined in 40 CFR section 262.58(a)(1) or subsection (a)(1) of this section for purposes of recovery of hazardous waste is subject to the requirements of 40 CFR Part 262, Subpart H or this article. The requirements of 40 CFR Part 262, Subparts E and F or articles 5 and 6 of this chapter do not apply.

(1) For the purposes of 40 CFR Part 262, Subpart H or this article, the designated OECD countries consist of Australia, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States.

(2) For the purposes of 40 CFR Part 262, Subpart H or this article, Canada and Mexico are considered OECD member countries only for the purposes of transit.

(b) Any person who exports hazardous waste to or imports hazardous waste from: a designated OECD member country for purposes other than recovery (e.g., incineration, disposal), Mexico (for any purpose), or Canada (for any purpose) remains subject to the requirements of 40 CFR Part 262, Subparts E and F or articles 4 and 5 of this chapter.

NOTE: Authority cited: Sections 25150, 25159, 25159.5 and 58012, Health and Safety Code. Reference: Sections 25150, 25159, 25159.5 and 58012, Health and Safety Code: and 40 CFR Section 262.58.

HISTORY

1. Change without regulatory effect adding new section filed 8-20-97 pursuant to section 100, title 1, California Codes of Regulations (Register 97, No. 34).
2. Change without regulatory effect amending subsection (a) and NOTE filed 11-30-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 49).